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DATE: October 14, 2004

TO: EXAMINER TAN LE

FACSIMILE NO.: 703-872-9306

FROM: John G. Posa

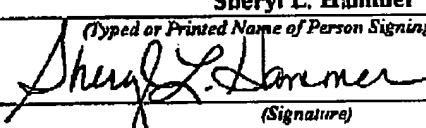
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RE: SN 10/054,122

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CERTIFICATE OF TRANSMISSION BY FACSIMILE (37 CFR 1.8)			Docket No. IDS-13802/14
Applicant(s): Venegas, Jr.			
Application No. 10/054,122	Filing Date Nov. 13, 2001	Examiner Tan Le	Group Art Unit 3632
Invention: MODULAR, COLLAPSIBLE BASE FOR FURNITURE, PARTICULARLY CONFERENCE TABLES, AND THE LIKE			
<p>I hereby certify that this <u>Response to Office Action</u> (Identify type of correspondence)</p> <p>is being facsimile transmitted to the United States Patent and Trademark Office (Fax. No. <u>703/872-9306</u>)</p> <p>on <u>Oct. 14, 2004</u> (Date)</p> <p style="text-align: right;"><u>Sheryl L. Hammer</u> (Typed or Printed Name of Person Signing Certificate)  (Signature)</p> <p style="text-align: center;">Note: Each paper must have its own certificate of mailing.</p>			

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of: Venegas, Jr.

Serial No.: 10/054,122

Group No.: 3632

Filed: Nov. 13, 2001

Examiner: Tan Le

For: MODULAR, COLLAPSIBLE BASE FOR FURNITURE, PARTICULARLY
CONFERENCE TABLES, AND THE LIKE

RESPONSE TO OFFICE ACTION

Mail Stop AMENDMENT
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Dear Sir:

In response to the Office Action mailed July 14, 2004, Applicant the Examiner's attention is directed to the following remarks.

This application was filed in the year 2001, claiming the benefit of a provisional filed in 2000. Thus, prosecution has, in essence, been ongoing for four to five years. There have been four Office Actions and an appeal which was diverted from the Board to a reopening of the prosecution. Now the claims stand rejected under 35 U.S.C. §103(a) over U.S. Patent No. 3,883,257 to Delafield in view of U.S. Patent No. 4,662,591 to Encontre (as well as additional references for a few of the dependent claims).

Applicant submits that there is no support for the Delafield/Encontre combination, largely because there is absolutely no motivation to combine these references. Delafield teaches a molded joint component for tubular frame furniture, such as "occasional tables, bookcases and the like" (column 1, line 6). The Examiner certainly concedes that the construction of Delafield is silent as to any sort of plastic sheathing, but argues that since Encontre discloses "a replaceable sheathing or decorative cover (92)", that it would have been obvious to combine these references "for the desirable purpose of simply catching more area of the table including the table legs and the horizontal members to create a more appearance [sic] and more desired decorative effect." This reasoning is flawed on several grounds. First, claim 1 includes the limitation of replaceable polymerized sheathing, whereas the cover 92 of Encontre is wooden (column 4, lines 44-48). Thus, even if this combination of references were

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legitimate, Applicant's claims would not result. Secondly, to the extent that Applicant understands the Examiner's argument, the way in which the table is "caught" by the table legs, is with a small horizontal flange 34, such that putting polymeric sheathing on the tubes of Delafield would defeat the use of that tab in that less of it would be used. It is never obvious to destroy an intended goal or function of a prior-art reference.

Third, the argument that the references should be combined "to create a more appearance [sic] and more desired decorative effect," makes no sense, since the desired decorative effect of Delafield is the use of bright metal plating on all members, including the corner joints. Thus, to add any kind of sheathing would defeat that purpose. Moreover, if the teachings of Encontre were combined with Delafield, the bright metal plating would be covered up with wood. Finally, to reject claims under 35 U.S.C. §103, the Examiner must provide a reason why one having ordinary skill in the pertinent art would have been led to combine references to arrive at Applicant's claimed invention. Moreover, there must be something *in the prior art* that suggests the proposed modification, other than the hindsight gained from knowledge that the inventor choose to combine these particular things in this particular way. Uniroyal Inc. v. Rudkin-Wiley Corp., 837 F.2d 1044, 1051, 5 USPQ2d 1434, 1438 (Fed. Cir. 1988). The Examiner is further required to make specific findings on a suggestion to combine prior art references. In Re Dembeczak, 175 F.3d 994, 1000-01, 50 USPQ2d 1614, 1617-19 (Fed. Cir. 1999).

In this case, there is no teaching or suggestion whatsoever to combine these references, and, in view of the arguments above, they teach away from one another. Based upon the foregoing comments, Applicant believes all claims are in condition for allowance. Questions regarding this application may be directed to Applicant's below-signed representative at the telephone and facsimile numbers provided.

Respectfully submitted,

By:

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